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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1965

No. 16

SGT. JESSE E. SNAPP,
Petitioner,

VS.

W. D. NEAL ET AL.,
Respondents.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF MISSISSIPPI

BRIEF FOR RESPONDENTS W. D. NEAL, FORMER STATE AUDITOR, AND JOE T. PATTERSON, ATTORNEY GENERAL

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CITATION OF OPINION BELOW

The opinion of the Supreme Court of Mississippi is reported in *250 Miss. 579, 164 So.2d 752,* and is set forth in the record at pages 46-61.

STATUTES INVOLVED

Chapter 588, General Laws of Mississippi of 1958, §§*10007-01, et seq.*, Miss. Code of 1942, Recp., is involved in this case in addition to the Federal statute; South Carolina statutes and other statutes of Mississippi cited by Petitioner, and that statute is set forth as Appendix "A" hereto.

The Petitioner does not state the questions presented as they are shown by the statutes and case involved herein.

QUESTIONS PRESENTED

1. Did the Supreme Court of Mississippi commit reversible error by holding that: Petitioner was not solely by reason of his being a member of the armed forces of the United States immuned from paying a license, fee, or excise and registering his motor vehicle (house trailer) under the laws of any state, and that he must comply with the Act of Congress granting the immunity in order to claim the benefits of the Federal statute?

2. Did the Supreme Court of Mississippi commit reversible error by holding that Petitioner cannot continue to enjoy the privileges of a Federal statute when he: (1) fails to comply with the provisions thereof by registering his motor vehicle (house trailer) in the state of his domicile; and (2) elects to fail and refuse to register the motor vehicle (house trailer) in the state where he and the motor vehicle (house trailer) are physically located under state statutes specifically recognizing the Federal statute and granting to him an ad valorem tax exemption?

STATEMENT OF THE CASE

1. Facts

The facts recited by Petitioner are basically the same as found by the Court below (R. 47-48). However, Petitioner's statement concerning non-movement of the trailer on the highways on any date pertinent to this case is not supported by the record. The tax receipt shows clearly that the tax was paid until November 1, 1963 (R. 23), the trailer was capable of being so moved (R. 14) and speculation as to whether it did or did not use the highways as it had previously done is unwarranted.

An additional fact not noted in the brief for Petitioner, but sworn to by him (R. 16), is "The Trailer is a 'house trailer' as defined by Section 2(a) of said House Bill No. 747 and is not and never has been registered or taxed under authority of Chapter 588, Laws of 1958 of Mississisippi." (R. 13).

2. Proceedings Below

The outline by Petitioner of the proceedings below is substantially correct.

ARGUMENT

Respondents adopt the sound reasoning and authorities contained in the opinion below as their own. In addition thereto, the following argument is made to show that by application of the rules of this Court the opinion below should be affirmed here.

POINT I

The Tax in Question Is a Valid Exercise of Sovereignty Unless the Act of Congress Prevents the Collection of the Tax under the Facts and Circumstances of This Case.

The property in question was physically located within the territorial jurisdiction of Mississippi during the taxing period (R. 13). In *Graves* v. *Schmidlapp,* 315 U.S. 657, this Court upheld the right of New York to tax intangibles found within that state. At page 660 this Court held that: "The power to tax 'is an incident of sovereignty and is coextensive with that to which it is an incident. All subjects over which the sovereign power of a State extends are objects of taxation.' *M'Culloch* v. *Maryland,* 4 Wheat. (U.S.) 316, 429, 4 L. ed. 579, 607."

Beyond question the rule quoted above would apply to the tangible property in this case unless Mississippi has been deprived of the right to tax by operation of the Act of Congress.

The power and right to tax is always presumed, and an exemption must be clearly granted. *Phoenix F & M Ins. Co.* v. *Tennessee,* 161 U.S. 174, 178. The taxing power is essential to the existence of government, and exemption from taxation must clearly appear. *Wilmington and W. R. Co.* v. *Alsbrook,* 146 U.S. 279, 294. Grants of immunity from taxation are never to be presumed; instead all the presumptions are the other way unless an exemption is clearly established, all property must bear its just share of the burdens of taxation. *Wiggins Ferry Company* v. *E. St. Louis,* 107 U.S. 365, 371.

It is contended for Petitioner that *Section 514* of the *Soldiers' and Sailors' Civil Relief Act, 50 U.S.C. App. 574,* grants absolute immunity from ad valorem taxation of

property belonging to members of the armed forces when the property is physically located in a state other than that of the domicile of the serviceman.

Insofar as personal property other than motor vehicles is concerned, Respondents cannot disagree with Petitioner because of the views expressed by the Court in *Dameron* v. *Brodhead*, 345 U.S. 322.

Insofar as motor vehicles are concerned, Respondents cannot agree with Petitioner that the Act grants absolute immunity of personal property from taxation by reason of military service. Motor vehicles are the one item of personal property specifically excepted from the sweeping provisions of the Act by proviso requiring an affirmative act on the part of the serviceman in order to bring that item of personal property within the immunity granted. The reason for this exception is obvious and is discussed in detail hereinafter.

Whether the Federal statute is held to create a legal fiction,[1] as was the view of the Court below (R. 30, 40 and 53); or whether it is held to be a procedure for relieving servicemen of the burden of local taxation by denying the several states of their inherent right to tax property within their borders under certain circumstances; it is clear that the Act of Congress does not grant a blanket immunity from taxation; and the result is the same insofar as motor vehicles are concerned; for the serviceman must have complied with the terms of the Act in order to claim the benefit and protection afforded thereby.

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1. *Blackstone* v. *Miller*, 188 U.S. 189, 204, held that "when logic and the policy of a state conflict with a fiction due to historical tradition, the 'fiction' must give way." See also *Liverpool L & G Ins. Co.* v. *Board of Assessors*, 221 U.S. 346, p. 354.

A. The Legislative History of Present Section 514 Clearly Refutes the Argument Made for Petitioner That Blanket Immunity from Taxation Is Granted.

Contrary to the statement by the *Amicus Curiae* (U.S. Br. p. 5) that there is no legislative history of Section 514 (2), all of the legislative history is contrary to the position taken for Petitioner and by the United States in this case.

Appendix "H" of the original brief for Petitioner (Pet. Br. 58-74) shows that the amendment of Section 514 being considered by Congress in 1944, H.R. 4733, would have granted blanket immunity from taxation of personal property of servicemen by any state other than the state of the domicile of the serviceman (Pet. Br. 59-62). The proposed amendment was transmitted to the Judge Advocate General and his remarks and recommendations concerning it were requested (Pet. Br. 58). Pursuant to this request, the proposed amendment was given mature consideration by the Judge Advocate General and there was drafted a substitute bill which retained the blanket immunity of personal property from taxation (Pet. Br. 62-69), except motor vehicles, and a proviso dealing exclusively with that item of personal property was added. The War Department recommended that the bill so drafted be substituted for H.R. 4733 (Pet. Br. 70-74). In the letter of transmittal from the Secretary of War to the Chairman of the House Committee on Military Affairs, it was pointed out that by the proviso motor vehicles were included within the terms of the bill on condition that the license, fee, or excise required by the state of domicile has been paid (Pet. Br. 71).

A comparison of the draft of bill (Pet. Br. 72-73) and the Petitioner's Exhibit "A" (Pet. Br. 33-34), except ~~from~~ for

the material added by the 1962 amendment, shows that the substitute bill recommended by the War Department was passed by Congress.

Thus, it is shown by Petitioner's own exhibits that the blanket immunity now contended for him was rejected by the Congress at the request of the War Department. The adoption by this Court of the construction of the statute sought by Petitioner would not only be contrary to the plain unambiguous language adopted by Congress, but would have the Court translate the Act by a process of interpretation into an equivalent of the bill Congress rejected at the request of the War Department. This Court has consistently refused to so translate Acts of Congress. *Western Union Telegraph Company* v. *Linroot*, 323 U.S. 490, 508-509.[2]

Whiting v. *City of Portsmouth*, 202 Va. 609, 118 SE2d 505, considered the provisions of §514 (2) pertinent here and held that a serviceman was not entitled to the immunity contained in §514 (1), unless he had complied with the motor vehicle laws of the state of his domicile. The case was decided on March 6, 1961, by the highest appellate Court of the State of Virginia.

With that construction of §514 (2) outstanding, the Congress amended §514 (1) to overturn a construction of §514 (1) by the U. S. District Court of the Eastern District of Virginia. In *United States of America, et al.* v. *Arlington County, Virginia, et al.*, 326 F.2d 929, p. 933, the Fourth Circuit Court said; "Legislative history (of the 1962 amendment of Section 514 (1)) states that the change was made in order to clarify the original intent of the Act that only the 'home' state should have the right

2. See also *Blau* v. *Lehman*, 368 U.S. 403; *Alaska* v. *American Can Company*, 358 U.S. 224; and *U. S.* v. *St. Paul M & M R Company*, 247 U.S. 310.

to tax." *Section 514 (2)* was not amended to clarify its provisions or otherwise change the interpretation placed thereon by *Whiting* v. *City of Portsmouth, supra.*

B. The Proviso Attached to the Act upon the Recommendation of the War Department Specifically Includes Motor Vehicles Within the Provisions of the Act Provided the License, Fee, or Excise Required by the State in Which the Serviceman Is Domiciled Has Been Paid.

The effect of the substantive enactment was to forbid all forms of taxation by states other than the state of the domicile of the servicemen. But the law theretofore had been otherwise, and it continues to be otherwise where the Act does not apply. The purpose of the proviso was to exclude from the operative effect of the new rule cases where the serviceman failed to comply with the terms of the proviso.

Cox v. *Hart*, 260 U.S. 427, 435, held: "The office of a proviso is well understood. It is to except something from the operative effect, or to qualify or restrain the generality of the substantive enactment to which it is attached. . . ."

"The general office of a proviso is to except something from the enactment clause, or to qualify and restrain its generality and prevent misunderstanding . . . Its grammatical and logical scope is confined to the subject matter of the principal clause." *U. S.* v. *Morrow*, 266 U.S. 531, 534-535.

The general act provides that for the purpose of taxation ". . . with respect to personal property, or the use thereof, . . . 'personal property' . . . shall not be deemed . . . to have a situs for taxation . . ." in any state except that wherein the serviceman is domiciled. The proviso

makes the operative effect of the Act include motor vehicles provided the license, fee, or excise required by the state of domicile has been paid.

The general act with the proviso concerning motor vehicles provides that for the purpose of taxation ". . . with respect to personal property, or the use thereof, . . . 'personal property' . . . shall not be deemed . . . to have a situs for taxation . . ." in any state, except that wherein the serviceman is domiciled, ". . . provided, that the license, fee or excise required by the State . . . in which he is domiciled has been paid."

This proviso places an affirmative duty on the serviceman to pay the license, fee, or excise required by the laws by his home state in order to bring the property within the terms of the principal clause.

POINT II

Failure to Comply with the Terms of the Proviso Removes the Property from the Blanket Immunity from Taxation and Subjects It to the General Law.

It is contended for Petitioner that the state of his domicile does not require the payment of a license, fee, or excise because the statutes of South Carolina require such payment of a license, fee, or excise only upon house trailers brought into that state or moved along the highways thereof.

The question is not whether the home state of Petitioner conditions its requirement of the payment of a license, fee, or excise upon motor vehicles being brought into that state or drawn along the highways thereof. The question is whether Petitioner was required to pay the license, fee, or excise provided for by the laws of his home state in order to bring himself within the terms of the proviso engrafted upon the Federal Act and thereby

bring his motor vehicle within the terms of the immunity granted.

South Carolina's statutes dealing with house trailers clearly provide that a house trailer may or may not have motive power of its own, §*46-2 (13)*, and must be equipped for use as a conveyance on streets or highways §*46-35.3*. It is, also, clear that South Carolina requires such house trailers to be registered §§*46-35.3* and *46-100*, and that no license may be issued or registration completed until all taxes legally due thereon have been paid §*46-100.1*. All citations in this paragraph are from *10 Code of Laws of South Carolina 1962* (1962 Supp.) (Pet. Br. pp. 47-49) Petitioner's house trailer must have had license, fees and taxes paid thereon in order for it to be properly registered under the laws of that state. The house trailer had a situs within that state provided such licenses, fees and taxes had been paid. Of course, if Petitioner had paid the taxes required by the laws cited above, Mississippi could not have required any further payment.

Section 514 grants to servicemen blanket immunity from all taxes other than those imposed by the state of their domicile except those imposed upon motor vehicles.

It is obvious from the language used it was the intent of Congress to include motor vehicles of servicemen within the sweeping provisions of the immunity granted only upon condition that the motor vehicle owner pay the license, fee, or excise required to be paid by the laws of his home state and license plates be secured therefor.

The right to elect is clear. The requirement that the election be made is equally clear.

The adoption by this Court of the construction of the Federal Act urged for Petitioner and the application of the reasoning contained in Petitioner's brief will result

in members of the armed forces being authorized to decline, with Federal immunity, from registering their personally owned motor vehicles in any state or being free to select the state in which their motor vehicles will be registered in the event they and they alone decide that the motor vehicles should be so registered. It is submitted that such a construction would do violence to the intent of Congress and would result in having unregistered motor vehicles using the highways of the various states thereby adding unnecessary burdens to traffic control, accident investigation and law enforcement.

The *Amicus Curiae* recognizes that all of the several states have required the registration of motor vehicles, and the payment of a license, fee, or excise thereon, since 1920 (U.S. Br., p. 11 and App. "C" thereof pp. 28-29). As shown by the exhibit to the brief of the U. S. Department of Justice, the various states require; (1) the registration of motor vehicles used on the highways "of the state" or "in the state."; (2) the registration of motor vehicles using "a highway" or "any highway" of the state; (3) the registration of every motor vehicle "driven" or "operated in this state" and; (4) requiring the registration by "every owner of a motor vehicle." None of the several states would be authorized to exercise extra-territorial jurisdiction in order to require payment of license, fees or excise by motor vehicle owners when the motor vehicle does not ~~not~~ have a situs within the State. The proviso of §514 does authorize the various states to issue license plates and to collect license, fees or excises from servicemen when and only when they elect to bring their motor vehicles within the terms of the Act of Congress.

Indeed the *Amicus Curiae* for the reasons stated above, and the certain knowledge that unregistered motor vehicles would add to the current hazards of the high-

way, urges this Court to reverse *California* v. *Buzard, No. 40*, a companion case to the case at bar.

The *Amicus Curiae* seeks to make a distinction without a difference by arguing that California had a right to impose criminal sanctions for failure to register, whereas it is urged that Mississippi does not have the right to require the payment of taxes when the serviceman in question has clearly failed to comply with the terms of the proviso.

The issue common to both cases is the right of a state to require the registration, and the payment of licenses, fees or excises, and other taxes, on personally owned motor vehicles physically located in that state, when the motor vehicles belong to members of the armed forces of the United States who are domiciled in another state, but who are in the state other than that of their domicile by reason of orders of their commanding officers, when the personally owned motor vehicles are not registered in, and have never been physically located in, the state of the domicile of the servicemen.

The Supreme Court of Mississippi held that failure of the Petitioner to comply with the terms of the proviso, or to pay the license, fee, or excise required by a statute granting exemption from ad valorem taxes, left the general rule in effect and that the property was taxable as all other items of personal property are taxable within the jurisdiction where it is found.

POINT III

Rules of Statutory Construction Require That All of the Provisions of an Act of Congress Must Be Given Effect.

As is correctly stated by the *Amicus Curiae;* "In 1944, when Congress amended Section 514 to deal with motor vehicle licenses, fees and excises, *all* states had statutes requiring the registration of motor vehicles, payment of license fees, and display of license plates." (U.S. Br. p. 11).

By urging for Petitioner that the proviso does not contemplate affirmative action on the part of servicemen to pay the license, fee, or excise required by the laws of the state of their domicile, the Court is being asked to construe the statute in a vacuum without regard to the laws of the several states and contrary to the true purpose of the proviso. In fact, such a construction would require a declaration that the proviso is ineffective.

"Where there is no ambiguity in the words of a statute there is no room for construction." *Yates* v. *United States,* 354 U.S. 298, 305.

"The language of a statute should be read, not in a vacuum, but in the light of the policies it was intended to serve." *Penn. R. Co.* v. *Rychlik,* 352 U.S. 480, 488.

"The Supreme Court, in construing a statute, must give effect, if possible, to every clause and word of a statute, and should avoid so interpreting a statute as to emasculate an entire portion thereof." *United States* v. *Menasche,* 348 U.S. 528, 538-539.

"The Supreme Court will not lightly conclude that a congressional enactment has no purpose or function, but will strive to give appropriate meaning to each of a stat-

ute's provisions and its predecessors." *Mercantile Nat. Bank* v. *Langdeau*, 371 U.S. 555, 560.

The proviso defines the term "taxation" to include ". . . but not be limited to license, fee, or excise . . ." The Supreme Court of Mississippi held that the inclusion of two of the three general classes of taxation, *i.e.*, licenses and excises, following the words ". . . but not limited to . . ." necessarily included the other general classification of taxes, *i.e.*, ad valorem (R. 58). Such taxes were included in the immunity granted subject to compliance with the proviso. They were excluded when the terms of the proviso were not complied with. To construe the Act otherwise would make the words ". . . but not be limited to . . ." ineffective.

"If a statute admits a reasonable construction which gives effect to all of its provisions, the United States Supreme Court will not adopt a strained reading which renders one part a mere redundancy." *Jarecki* v. *G. D. Searle & Co.*, 367 U.S. 303, 307-308.

POINT IV

The House Trailer in Question Is a Motor Vehicle for All Purposes of This Proceeding by the Clear Application of the Language of the Statutes Involved and by Petitioner's Own Admission.

It is argued for Petitioner that the house trailer in question is not a motor vehicle. By this argument, it is sought to have the Court reject and disregard the sworn statement of Petitioner (R. 16).

That statement is: "The Trailer is a 'house trailer' as defined by Section 2(a) of said House Bill No. 747 and is not and never has been registered or taxed under authority of Chapter 588, Laws of 1958 of Mississippi (R. 13)."

Chapter 588, General Laws of Mississippi 1958, was passed by the Mississippi Legislature to implement the amendment of *Section 112* to the *Mississippi Constitution of 1890*, and to thereby provide a special method of assessment and collection of taxes on motor vehicles (R. 55-56).

Sec. 3, Ch. 588, supra, the definition section, provides in part: "The subject words and terms of this section for the purpose of this Act, shall have meanings as follows: '(a) The term "motor vehicle" shall mean any device and attachments supported by one or more wheels which is propelled or drawn by any power, other than muscular power, over the highways, streets, or alleys of this state.'"

The definition quoted above is sufficiently broad to include and does include the house trailer in question. By Petitioner's own sworn statement, the application of the definition is applicable to the trailer.

The Mississippi Supreme Court did not hold that that statute or any other state statute served to deprive Petitioner, or any other member of the armed forces, of rights granted by §514. Respondents have never contended that Mississippi had such right.

Not having the power to require a waiver of a Federal right, Mississippi chose, in the enactment of *Ch. 588, supra*, to grant exemption from the ad valorem features of the Act, provided the motor vehicles were registered within that State. This was prompted, no doubt, by the certain realization that the high rate of ad valorem taxes would cause many motor vehicles of servicemen to be registered in the state of their domicile while being operated on the streets and highways of Mississippi. This would necessarily have added undue burdens upon traffic control, accident investigation and police regulations. This

was not a total surrender of the inherent power of Mississippi to tax property within its jurisdiction, but it was a special exemption granted as a matter of policy to stimulate registration of motor vehicles by non-resident servicemen where the property was physically located and being operated.

The office of Respondent, Attorney General, held that motor vehicles of non-resident servicemen could be registered in Mississippi without the payment of ad valorem taxes by virtue of the exemption contained in the Act (R. 34-35 and 56-57).

It is admitted by Petitioner that [illegible] taxes have ever been paid on the motor vehicle (house trailer) of Petitioner, and that it has never been registered in the state of his domicile or in any other state (R. 13). It is, also, admitted that the motor vehicle (house trailer) has been moved along the highways of Mississippi (R. 25) and that it is capable of being so moved at any time (R. 14).

Sec. 9352-09 (b), Miss. Code of 1942, Recp., provides, in part: ". . . that there is hereby levied an annual privilege tax upon each house trailer, or house semitrailer, of ten dollars ($10.00)."

Sec. 9352-18, Miss. Code of 1942, Recp., provides, in part: "Any person required under the provisions of this act to register and pay a privilege license tax on any vehicle shall make application therefor, . . ."

Notwithstanding the requirements of the proviso to the Federal Act, the statutes of South Carolina and the provisions of the Mississippi statutes quoted above, Petitioner continued to decline to register his motor vehicle (house trailer) while using the highways of Mississippi whenever the need arose.

Chapter 535 (H. B. #747) General Laws of Mississippi 1962, was passed to supplement the provisions of *Ch. 588, supra,* and is pari materia therewith (R. 52). The entire statute is set forth as Appendix "B" hereto. *Section 2* thereof, the definition section, provides in part. "'The subject words and terms of this section, for the purposes of this act, shall have meanings as follows:

"'(a) The term "house trailer" shall mean and include any trailer-type vehicle or mobile home, designed and constructed so as to be suitable for use for domestic, commercial, or industrial purposes, and which is constructed so that it may be moved from place to place over the highways and streets by being supported by two (2) or more wheels, and drawn or moved by motive power not its own, and which house trailer is not taxed under authority of Ch. 588, laws of 1958."

With adequate provisions for exemption from ad valorem taxes on motor vehicles of non-resident servicemen having been made in *Ch. 588, supra,* no comparable provision was included in *Ch. 535, supra.* The taxes imposed by *Ch. 535, supra,* are, of course, the taxes which it is contended for Petitioner that no liability exists, because it is now contended that the house trailer is not a motor vehicle. This contention is contrary to the sworn statement of Petitioner as applied to the statutes which he admitted were applicable.

If the petition for refund had alleged and proven that the house trailer was not, in fact, within the definition contained in *Chs. 588, supra,* and *535, supra,* the application for refund would have been approved, because the proviso would not have been brought into the matter. However, this is not the case and Petitioner is bound by his own sworn statement.

CONCLUSION

For the reasons and authorities discussed above, in addition to those contained in the Opinion of the Court below, Respondents respectfully submit that this case should be affirmed here.

Respectfully submitted,

W. D. NEAL,
Former State Auditor and

JOE T. PATTERSON,
Attorney General,
Respondents

By: .....
MARTIN R. McLENDON
Assistant Attorney General
New Capitol Building
Jackson, Mississippi

CERTIFICATE

I, MARTIN R. McLENDON, do hereby certify that a copy of the foregoing Reply Brief of Respondents was mailed to LEON D. HUBERT, JR., Esq., at his regular office address, 300 Oil & Gas Building, 1100 Tulane Avenue, New Orleans, Louisiana.

.....
MARTIN R. McLENDON

APPENDIX A

§ 10007-01. Citation of Act.

This act may be known as "The Motor Vehicle Ad Valorem Tax Act of 1958," and may be cited as such.

SOURCES: Laws, 1958, ch. 588, § 1.

§ 10007-02. Purpose of Act.

The purpose of this act is, with reference to assessing ad valorem taxes on motor vehicles which are operated upon the public highways of this state, to, (a) fix the taxable year, (b) fix the tax lien date, (c) determine the method of assessing, (d) fix the date for assessing such taxes, (e) prescribe the method of collecting such taxes, and (f) to fix the date of collecting such taxes.

SOURCES: Laws 1958, ch. 588, § 3.

§ 10007-03. Definitions.

The subject words and terms of this section for the purpose of this Act, shall have meanings as follows:

(a) The term "motor vehicle" shall mean any device and attachments supported by one or more wheels which is propelled or drawn by any power, other than muscular power, over the highways, streets, or alleys of this state.

(b) The term "public highway" shall mean and include every way or place of whatever nature, including public roads, streets, and alleys of this state, generally open to the use of the public or to be opened or reopened to the use of the public for the purpose of vehicular travel, notwithstanding that the same may be temporarily closed

for the purpose of construction, reconstruction, maintenance, or repair.

(c) The term "administrator of the road and bridge privilege tax law" shall mean the official authorized by law to administer the road and bridge privilege tax law of this state.

SOURCES: Laws, 1958, ch. 588, § 3; 1960, ch. 413, § 1.

§ 10007-04. Who is liable for tax—time of payment—due date.

Any person required by law to pay a road and bridge privilege license tax on any motor vehicle shall also be liable for the ad valorem taxes due on such motor vehicle, unless otherwise specifically exempt herein. Such ad valorem taxes due shall be paid at the same time the road and bridge privilege license tax is paid, and the payment of the said ad valorem taxes due shall be a prerequisite to the issuance of the said road and bridge privilege license.

The ad valorem tax lien date for the purpose of this act shall also constitute the ad valorem tax due date which shall also be the same date that the subject motor vehicle is purchased from a bona fide dealer, if it is intended that such motor vehicle is to be operated upon the highways of this state.

In all cases, however, where the time for complying with the road and bridge privilege tax law has been extended by law as to time of payment, then the same extension of time shall apply to the date on which the ad valorem taxes on such motor vehicle must be paid. Ad valorem taxes on all motor vehicles, defined in this act, shall be calculated as of the first day of the month in which such taxes were due, regardless of any extension of time for payment of such taxes as provided hereinabove.

SOURCES: Laws, 1958, ch. 588, § 4.

§ 10007-05. Taxable and fiscal years—taxes to be collected by county and municipal tax collectors—when to be paid.

For the purpose of this act the taxable year and fiscal year shall commence each year on November first and shall end on October thirty-first of the following year, and such taxable year shall run concurrently with the taxable year now in effect in the law pertaining to the payment of the road and bridge privilege license tax on motor vehicles. Ad valorem taxes on motor vehicles shall be collected by the county tax collector for the county and state and by the municipal tax collector for the municipalities and municipal separate school districts. Ad valorem taxes for any ensuing year may be paid during the month of October, however, and said ad valorem taxes on any motor vehicle must be paid at the same time or prior to the time that the road and bridge privilege license is issued for the subject motor vehicle, unless herein otherwise specifically exempt from such ad valorem taxes.

In cases where the privilege tax is not due on a motor vehicle prior to November thirtieth then the ad valorem taxes due on such motor vehicle shall be calculated for only the proportional part of the taxable year remaining, prorated from the first day of the month on which said taxes are due.

SOURCES: Laws, 1958, ch. 588, § 5.

§ 10007-06. Ad valorem tax receipts to be presented before road and bridge privilege license issued—reports—penalties—auditing of sheriff and tax collectors.

In cases where the road and bridge privilege tax license is issued by the administrator of the road and bridge privilege tax law, before he shall issue such license he

shall require that a tax receipt, made out on the prescribed form and properly issued, be presented to him showing that all ad valorem taxes due on such motor vehicle have been paid according to the situs of the subject motor vehicle as shown by the written application for such privilege license. If the application for such privilege license reveals that the situs of the subject motor vehicle is in a municipality or municipal separate school district, then the said administrator of the road and bridge privilege tax law, before issuing said privilege license, shall require that a tax receipt made out on the prescribed form and properly issued be presented to him showing that such ad valorem taxes due have also been paid.

The said administrator of the road and bridge privilege tax law shall secure a rubber stamp to be used in stamping each such ad valorem tax receipt so presented to him. This stamp shall show the date of issuance and the receipt number of the privilege license issued for each corresponding ad valorem tax receipt, date and license receipt number to be filled in with ink, or with indelible pencil, by and in the name of the said administrator of the road and bridge privilege tax law and counter-signed by the issuing deputy or clerk. The number of the corresponding ad valorem tax receipt presented shall be written by him on the privilege license receipt. In cases where a separate municipal ad valorem tax receipt for motor vehicles is necessary, the same procedure as outlined herein shall be followed with reference to the municipal tax receipt.

Said administrator of the road and bridge privilege tax law, his deputies or clerks violating the provisions of this section shall be liable on their official bonds in double the amount of the ad valorem taxes due on each such motor vehicle.

Twice each fiscal year the said administrator of the road and bridge privilege tax law shall file a report with the State Auditor showing the privilege license receipt number, the corresponding ad valorem tax receipt number or numbers, and the name under which such license receipt was issued, for each such license receipt issued by him. A separate report shall be made for each county involved, and a duplicate copy of such report shall be furnished the respective sheriff and tax collector of each county involved, and the tax collector of each municipality in said county. One of these reports shall be made on or before May fifteenth covering all such license receipts issued by him for the then current fiscal year, including those issued through the month of April. Another such report shall be made on or before November fifteenth covering all such license receipts issued by him for the remaining portion of the immediately prior fiscal year.

The aforesaid reports shall be preserved by the State Auditor, and in auditing the sheriff and tax collector for the corresponding fiscal year such tax receipts indicated on these reports shall be reconciled with the corresponding ad valorem tax receipt number in the office of the sheriff and tax collector.

SOURCES: Laws, 1958, ch. 588, § 6; 1960, ch. 413, § 2.

§ 10007-07. Copy of tax levy to be furnished to county tax collector—postponement of collections where adoption of tax levy is delayed—notice to be given—owners not to be penalized.

On or before September fifteenth the clerk of the board of supervisors shall furnish the county tax collector a certified copy of the county tax levy for the ensuing year. This tax levy shall not only show the tax levy for

each purpose for which it was levied, but it shall also show the total tax levy for each separate taxing area in the county, including the state ad valorem tax levy.

If for any reason the said county tax levy is not adopted and/or delivered to the county tax collector on or before the first day of October then the said tax collector is hereby authorized to postpone for one month the beginning of the collection of ad valorem taxes and road and bridge privilege taxes on all motor vehicles legally situated in his county and liable for said taxes, and the tax collector shall notify the taxpayers of his county by newspaper publication that the beginning of the collection of such said taxes is postponed for one month, due to the fact that he has not been furnished with a certified copy of the said tax levy, as provided by law. Copies of this said newspaper notice shall be furnished the motor vehicle comptroller and the Mississippi Highway Safety Patrol, and the provisions of said notice shall be controlling in all respects on such agencies and on any other peace officer, and no damages, penalties or interest shall accrue against any owner of such motor vehicles during such postponement period.

If such tax levy is not furnished the tax collector within the said one month, then the same procedure as to postponement shall be followed and the same immunities shall apply from month to month until such tax levy has been furnished the tax collector.

SOURCES: Laws, 1958, ch. 588, § 7.

§ 10007-08. How assessed value is determined.

Motor vehicles shall be assessed uniformly according to value and such assessed value shall be determined by an assessment schedule which shall be prepared and made of minute record by the state tax commission and shall

be certified to the president of the board of supervisors of the various counties of the state, and to the mayor or the presiding officer of the municipal boards of the various municipalities, and municipal separate school districts of the state, in care of the clerk of said respective boards, as the official motor vehicle assessment schedule which shall be used by the proper officials of both respective jurisdictions in assessing motor vehicle ad valorem taxes for the ensuing fiscal year.

SOURCES: Laws, 1958, ch. 588, § 8.

§ 10007-09. County tax collector to be supplied with tax receipts—form of such receipts—how to be used.

The tax collector of each county shall be supplied with a sufficient number of tax receipts to be used by him in the collection of both the privilege tax and the ad valorem tax on all taxable motor vehicles in his county. The tax receipt for these purposes shall be a combination receipt and shall carry a number which shall be the same number as that of the road and bridge privilege tax receipt and tag number for each such motor vehicle. Under no circumstances shall one tax receipt be used for receipting the ad valorem taxes on more than one motor vehicle.

There shall also be ample provisions made on these tax receipt forms for receipting ad valorem taxes collected for any municipality or municipal separate school district in the county, in case the county tax collector is legally directed as hereinafter provided to collect such taxes at the same time such tax collections are made for the county. This combination tax receipt form shall be prescribed by the Tax Commission in cooperation with the administrator of the road and bridge privilege tax law,

and the administrator of the road and bridge privilege tax law shall supply them.

The county tax collector of each county shall also secure an ample supply of ad valorem tax receipts to be used by him in collecting the ad valorem taxes on all motor vehicles in his county for which the road and bridge privilege tax license will be issued by the administrator of the road and bridge privilege tax law. Ample provisions shall also be made on these forms for receipting any municipal and municipal separate school district ad valorem taxes collected, in case the county tax collector is legally directed to collect such taxes. All such ad valorem tax receipt forms for each county, for the collection of ad valorem taxes only, shall be numbered in consecutive order beginning with the number "one"; they shall be made up in triplicate, the exact form of which shall be prescribed by the State Tax Commission, and they shall be supplied by the county board of supervisors. A separate receipt shall be issued for each motor vehicle on which ad valorem taxes are paid.

SOURCES: Laws, 1958, ch. 588, § 9; 1960, ch. 413, § 3.

§ 10007-10. Assessment schedule to be prepared by state tax commission—basis of schedule—corrections.

The state tax commission shall, on or before the fifteenth day of June of each year, prepare and adopt, by minute record, an assessment schedule of motor vehicles, as defined in this act, which such assessment schedule, and no other, excepting as may be hereinafter provided, shall be used by the tax collector of each county and each municipality and municipal separate school district in the state, in assessing, calculating and collecting ad valorem

taxes in each respective jurisdiction on all motor vehicles liable for such tax as authorized by this act.

In preparing the said assessment schedule the tax commission may make use of, as a base, the values of the various makes, models, year of manufacture, and types of motor vehicles as adopted by some reputable nation-wide agency or association which regularly compiles and furnishes such information as to actual value of the different motor vehicles as to make, model, type, and year of manufacture, or by any other method or methods or combination of methods which in its judgment will tend to equalize the assessed value of property of this class with property of other classes in general. These various motor vehicles, together with any special equipment, may be grouped into as many categories as, in the judgment of the tax commission, will be most practical in effecting equalization. Vehicles of a manufactured year model next succeeding the adoption of such schedule shall be assessed at a value which is twenty per cent (20%) higher than that at which the latest and most similar model is assessed for as set out in the schedule.

In preparing the said assessment schedule the tax commission shall apply such a percentage to the base value of such motor vehicles which, in its best judgment, will produce an assessed value which will equalize the assessed value of motor vehicles with the assessed value of other property in general, throughout the state, so far as is practical.

The tax commission shall also make necessary corrections and amendments to this schedule from time to time throughout the fiscal year, and in so doing the general procedure set out above shall be followed.

SOURCES: Laws, 1958, ch. 588, § 10; 1960, ch. 473, § 1.

§ 10007-11. Copy of assessment schedule to be forwarded to board of supervisors and municipal board —notice of inspection of schedule—hearings of petitions for reductions.

On or before the first day of July each year the tax commission shall forward to the president of the board of supervisors of each county and to the mayor or other presiding officer of the municipal board of each municipality, in care of the clerk of the said respective boards, a certified copy of the assessment schedule which is designed to become effective for the then ensuing fiscal year in assessing and collecting ad valorem taxes on motor vehicles as defined in this act.

At the July meeting of the board of supervisors of the county and the municipal board of the municipalities, the said boards shall examine and consider the said motor vehicle assessment schedule and shall adopt an order on their respective minutes directing the clerk of said respective boards to give notice thereof by newspaper publication, in a newspaper having general circulation in such respective jurisdictions, that such motor vehicle assessment schedule is ready and open for inspection and examination by any interested taxpayer, and that within a period of fifteen (15) days after such publication, the date to be specified in publication notice, the respective boards shall reconvene in regular or adjourned meeting to hear and take action on any complaint, filed in writing, objecting to and petitioning for a specified reduction on any portion or portions of the assessment schedule affecting the complainant directly. The respective boards shall continue in session from day to day until all such objections and petitions have been heard and action has been taken thereon. The order and notice provided for herein shall refer by name to this chapter and it shall

not be necessary to incorporate in said order and notice the provisions of this chapter.

SOURCES: Laws, 1958, ch. 588, § 11; 1960, ch. 473, § 2.

§ 10007-12. Filing and disposition of objections to assessment schedule and claims for adjustment—dissatisfied taxpayer may sue for taxes paid, when.

Any person objecting to any portion or portions of the motor vehicle assessment schedule affecting him or her directly shall file a written objection and claim for adjustment, in triplicate, with either the board of supervisors of the county or the municipal board of the municipality or with both such boards, on a form to be designed and supplied by the tax commission. The motor vehicle owner shall set forth therein in detail the grounds for his objection and claim for adjustment, with a full and complete identifiable description of the subject motor vehicle.

If the board of supervisors or the municipal board, as the case may be, is of the opinion that the objection and claim for adjustment of the motor vehicle owner has sufficient merit, then the original and duplicate copies of the said objection and claim together with any recommendation made by either of the said governing boards shall be forwarded to the tax commission for approval or disapproval.

If the tax commission is of the opinion that the said objection contains sufficient merit, then the tax commission shall make whatever adjustment on such claim as in its judgment is fair and equitable; if, on the contrary, the tax commission is of the opinion that the said objection to the proposed assessment does not have sufficient merit

then the tax commission shall disapprove the claim. In either case, the tax commission shall return the original copy of the objection and petition to the clerk of the board of supervisors or to the clerk of the municipal board, as the case may be, with its action duly stated thereon. The decision of the tax commission in disapproving such a claim shall be final as between the board of supervisors and/or the municipal board and the tax commission, and the clerk of the respective boards shall then notify the claimant that his adjustment claim has been disapproved by the tax commission.

A petition for adjustment originating in either the county or a municipality of the county, if approved by the tax commission, shall become effective, as approved, in both jurisdictions, and in cases where the county tax collector does not collect said taxes for the municipality, then it shall be the duty of the clerk of the jurisdiction in which the claim for adjustment originated to officially notify the tax collector of the other jurisdiction, by citing the minute record of such action and properly identifying the subject motor vehicle.

If the tax commission approves a claim for the reduction of a proposed assessed value of any specific motor vehicle, then upon receipt of such notice by the clerk of the board of supervisors of the county or by the clerk of the municipal board, as the case may be, a minute record shall be made and a certified copy of such action shall be furnished the tax collector, and in making his report the tax collector shall cite on the ad valorem tax receipt and in his report the minute book and page as legal reason for such reduction in assessed value on any such motor vehicle. Under no circumstances shall a tax collector vary from the said adopted assessment schedule in calculating and collecting motor vehicle ad valorem taxes unless

such petition for reduction has been approved by the tax commission, and the tax collector has filed in his custody written official authority therefor from the clerk of the respective board, and evidence of such action is cited as hereinabove provided. An adjustment of the proposed assessed value of one or more motor vehicles of a certain group or class, under this procedure, shall not affect the proposed assessed value of other motor vehicles of the same group or class.

Any taxpayer dissatisfied with any portion of the assessment schedule directly affecting him may pay the resulting tax under protest and sue for recovery of all or any portion of the tax paid, provided that he requests the tax collector to indicate on the tax receipt at the time the tax is paid that the said tax is being paid under protest. This recourse is available, however, only to the taxpayer who filed objection and adjustment claim to the proposed assessment during the time set for filing such objection, as provided hereinabove, excepting in cases where the cause for such protest originated subsequent to the time for filing such protest.

SOURCES: Laws, 1958, ch. 588, § 12.

§ 10007-13. County tax collector's reports and records of tax collections—remittance of tax collections to municipalities.

Within twenty (20) days after the end of the month the county tax collector shall file a report showing the amount of motor vehicle ad valorem taxes collected by him for the previous month. This report shall be made in part in conjunction with and as a part of the monthly report made on the collection of road and bridge privilege taxes for the same period. The form for this portion of said report shall be prescribed by the administrator of

the road and bridge privilege tax law in cooperation with the State Tax Commission.

This said report shall show, in addition to the information prescribed by the administrator of the road and bridge privilege tax law, the following information for each motor vehicle on which ad valorem taxes were paid; the code number of the vehicle as fixed by the assessment schedule, the assessed value of the vehicle, the situs of the vehicle as to school district, road district, levee district, municipality, the total tax rate applicable, ad valorem taxes, damages, if any, and the total ad valorem taxes and damages. These sheets shall be numbered in consecutive order, and shall be made in quadruplicate. The original copy of this report shall be placed in a suitable binder and retained by the county tax collector as a permanent record, the first and second copies shall be forwarded to the administrator of the road and bridge privilege tax law and commission of public safety respectively, as now provided by law, and the third copy shall be delivered to the chancery clerk.

When the above mentioned portion of the report has been completed, a recapitulation of it shall be made on a separate sheet, showing by classes the total number of road and bridge privilege licenses issued, the amount of money collected for the license plates, the total road and bridge privilege taxes collected by classes, and the total amount of ad valorem taxes collected designating the amount collected for each separate taxing area. This report shall also be made in quadruplicate. The tax collector shall retain the original as a permanent record, the first copy shall be forwarded to the administrator of the road and bridge privilege tax law, the second copy shall be forwarded to the tax commission, and the third copy shall be delivered to the chancery clerk.

Motor vehicle ad valorem tax collections shall be entered in the tax collector's cash book as reflected by the said recapitulation, showing by taxing area, the total assessed value and total such taxes collected each month for each separate taxing area, and it shall not be necessary that either the tax receipt number or the taxpayer's name be entered, as required by Chapter 188. Laws of 1934 (Section 9911, Mississippi Code of 1942), for other ad valorem tax collections.

In all cases where the county tax collector is ordered to collect motor vehicle ad valorem taxes for a municipality, the tax collector shall furnish to each such municipality a certified statement as to the total assessed value of the motor vehicles on which taxes were collected for such municipality, together with an additional statement showing the net amount of taxes collected for such municipality less his indicated collection fees. This report shall be made to the municipality at the same time a remittance is made to the municipality for all such net ad valorem taxes collected for the said municipality for the previous month. This remittance and report shall be made to the municipality on or before the twentieth day of the month following that in which the collections were made.

SOURCES: Laws, 1958, ch. 588, § 13; 1960, ch. 413, § 4.

§ 10007-14. Owner may receive credit for taxes paid where motor vehicle is destroyed—application for —perjury.

If any motor vehicle on which the ad valorem taxes prescribed in this act have been paid, shall be totally destroyed by fire, tornado, flood, collision, accident, or acts of Providence, then the owner of such motor vehicle, upon filing a petition and submission of sufficient proof,

may be credited with the amount of the ad valorem taxes on the proportional part of the fiscal year remaining, less ad valorem taxes accruing on the salvage price, if any, in calculating the amount of ad valorem taxes due on any replacement for such a motor vehicle, if replaced during the then current fiscal year. In no event, however, shall such person claiming credit under this provision be entitled to a cash refund.

In order to obtain benefit of this credit, such person must submit proof supported by affidavit of three (3) reputable citizens that such motor vehicle has been totally destroyed, and a statement must be made as to the estimated amount of salvage value remaining. The application for this credit and the three (3) supporting affidavits must be notarized by an officer who has legal authority to notarize such instruments.

Any person who makes or swears to a false statement or makes or swears to a statement of facts without personal knowledge of such facts, in any connection with an adjustment claim as referred to above, shall be guilty of perjury and upon conviction shall be punished as now provided by law. The same procedure as outlined above shall apply to municipalities and municipal separate school districts in proper cases, if the subject motor vehicle has been totally destroyed as outlined above.

SOURCES: Laws, 1958, ch. 588, § 14.

§ 10007-15. Procedure where municipality desires county tax collector to collect motor vehicle ad valorem taxes—fees—inspection of tax collector's records—penalties—tax collector liable on official bond.

Any municipality in the state desiring to have its motor vehicle ad valorem taxes collected by the county tax collector at the same time and in the same manner

provided for by this Act for collecting county and state ad valorem taxes on motor vehicles may do so by proceeding as follows:

On or before the first day of May the municipal board shall enter an order upon its minutes signifying its desire to have the county tax collector collect its motor vehicle ad valorem taxes at the same time and in the same manner that he collects the county and state ad valorem taxes on such motor vehicles, for the ensuing fiscal year. A certified copy of this order shall be furnished the tax collector of the county, the State Tax Commission and the administrator of the road and bridge privilege tax laws. In such case it shall be mandatory that such municipal ad valorem taxes be collected by the county tax collector.

The authorization of the tax collector to collect municipal taxes on this class of property shall also include the collection of such taxes on such property located in the municipal separate school district, if any, although such property is located outside of the corporate limits of such municipality.

On or before September fifteenth the municipal clerk shall certify to the county tax collector a copy of its official tax levy for the then ensuing fiscal year. On this tax levy the clerk shall not only certify as to the tax levy for each purpose for which it was levied, but, he shall also certify as to the total amount of the levy for all municipal purposes, and he shall show separately the total amount of the levy for the municipal separate school district, if the said municipality is a part of a municipal separate school district.

For his services in collecting all such municipal and municipal separate school district ad valorem taxes, the

tax collector shall add such taxes to the regular county ad valorem taxes and from such total amount he shall retain the same fee as if these same collections were made for ordinary taxing districts of the county, as provided by Chapter 217, Laws of 1952 (Section 3936, Mississippi Code of 1942, as amended), excepting that, in no instance shall his fee be less than two per cent (2%) for collecting municipal and municipal separate school district taxes. He shall on or before the twentieth day of the following month remit to the municipality the remaining portion of such taxes so collected for and during the preceding month. A report of the total assessed value of the subject motor vehicle on which such municipal ad valorem taxes were collected for the preceding month shall be forwarded to the municipality along with the said remittance.

The records of the county tax collector shall be available at any time during regular office hours for inspection by the municipal authorities or their authorized agents to determine as to whether or not any such taxpayer has been properly assessed, both as to value and as to situs of the subject motor vehicle and as to whether or not the proper tax has been collected and remitted for the benefit of the municipality and municipal separate school district, in proper cases, if such municipality has officially authorized said tax collector to collect its motor vehicle ad valorem taxes, as provided hereinabove.

For similar violations of this Act the same penalties shall apply in favor of any municipality, in proper cases, which apply in favor of the counties. The tax collector shall be liable on his official bond to the municipality for any failure on his part to assess, collect, and remit the correct amount of taxes due any municipality, under the

provisions of this Act, on any motor vehicle for which he collects county and state ad valorem taxes.

SOURCES: Laws, 1958, ch. 588, § 15; 1960, ch. 413, § 5.

§ 10007-16. Owner liable for motor vehicle ad valorem taxes to make application for privilege license—what to contain—penalty for misstatements—liability of tax collector on official bond.

Each motor vehicle owner liable for this said ad valorem tax shall each year file with the tax collector a written application for the motor vehicle road and bridge privilege license. In addition to the information required by Chapter 474, laws of 1950 [§ 9352-18*], this application shall also furnish information showing as to what school district, what road district, if any, what levee district, if any, and any information as to other special taxing districts which represent the situs of the subject motor vehicle. The proper road and bridge privilege tax receipt number shall be written on the said applications and they shall be filed in consecutive order in a suitable filing cabinet. This application form shall be prescribed by the tax commission in cooperation with the administrator of the road and bridge privilege tax law, and shall be supplied by the board of supervisors.

These applications shall be preserved by the tax collectors until the board of supervisors shall, by written order, authorize that they may be destroyed. Such authority shall not be issued by the said board of supervisors until a complete audit of the tax collector has been made and all records are found to be in order and all taxes are found to have been properly calculated, collected, and all funds arising therefrom have been prop-

erly accounted for and paid into the proper funds as certified to by the Auditor of Public Accounts.

Any material misstatement of facts contained in this privilege license application shall constitute a misdemeanor and upon conviction the offending person shall be punished according to law.

The tax collector shall be liable on his official bond for the amount of any taxes lost by reason of his failure to comply with any of the provisions of this Act, and it shall be the duty of the State Auditor of Public Accounts to so charge the account of any such tax collector and to enforce payment to the proper authorities of any such funds due and unpaid.

SOURCES: Laws, 1958, ch. 588, § 16; 1960, ch. 413, § 6.

§ 10007-17. Tax assessors not required to assess motor vehicles—assessed value of personal property in county and municipality—order directing county tax collector to collect municipal taxes effective until rescinded.

Upon enactment of this law the tax assessors of the various counties and municipalities of the state shall not be required to assess motor vehicles, as defined in this Act, in preparing their regular assessment rolls, from year to year.

The total assessed value of all motor vehicles as reflected by the annual report of the county tax collector shall be considered as a legal part of the assessed value of personal property in the county and the total assessed value of motor vehicles on which taxes are paid during the month of October for the ensuing fiscal year and during the months of November and December for the current fiscal

year shall be used in determining the total assessed value of a county for classification purposes, and the total assessed value of all such motor vehicles of the municipality for the same period, as reflected by the annual report of the county tax collector, shall be considered as a legal part of the assessed value of personal property in the municipality in determining the total assessed value of such municipality.

Any order legally adopted and made of minute record by the municipal authorities directing the county tax collector to collect its ad valorem taxes on motor vehicles as provided by this Act shall remain in force from year to year until rescinded by official order duly recorded and certified to the county tax collector and the municipal assessor.

For any year any municipality may adopt an order rescinding its former order authorizing the county tax collector to collect its ad valorem taxes on motor vehicles, provided that such rescinding order is duly adopted, made of minute record, and certified to the county tax collector at least sixty (60) days prior to the beginning of the ensuing fiscal year, and such order shall be published one time in a newspaper having general circulation in the subject municipality.

SOURCES: Laws, 1958, ch. 588, § 17; 1960, ch. 413, § 7.

§ 10007-18. Preparation of assessment schedule where municipality elects not to adopt schedule prepared by state tax commission.

Any municipality in the state electing not to adopt the motor vehicle assessment schedule for the assessment and collection of its ad valorem taxes on motor vehicles, provided for by section [§ 10007-10] of this act, shall order

its tax assessor to prepare and file with the municipal board of such municipality an assessment schedule for such purposes, excepting motor vehicles owned by public utilities and railroads, which, under the authority of section 9825, Mississippi Code of 1942, are assessed by the state tax commission. The said order shall be made of minute record and a certified copy shall be furnished the municipal tax assessor.

In preparing the assessment schedule the municipal tax assessor shall comply in general with the provisions of section 10 [§ 10007-10] of the act excepting that he shall equalize the assessed value of motor vehicle with the assessed value of other property located within his jurisdiction rather than with the assessed value of property throughout the state.

SOURCES: Laws, 1958, ch. 588, § 18.

§ 10007-19. Duties of municipal tax assessor—proceedings by municipal board.

On or before the first day of July each year the municipal tax assessor shall file with the municipal clerk a copy of the assessment schedule. The tax assessor shall attach his certificate to the assessment schedule, prior to its delivery to the clerk. This assessor's certificate shall cite the authority under which the assessment schedule was prepared, and it must also contain a statement that in his best judgment the assessed value of motor vehicles shown therein are equalized with the assessed value of other real and personal property in general throughout the subject jurisdiction.

When the said municipal assessment schedule has been filed with the municipal board, then such board shall follow the same procedure for the subject municipality as

that provided for by Section 11 of this Act [§ 10007-11] with reference to the county board of supervisors.

SOURCES: Laws, 1958, ch. 588, § 19; 1960, ch. 413, § 8.

§ 10007-20. Objections to municipal assessment schedule, and claims for adjustment—disposition of—dissatisfied taxpayer may sue for taxes paid, when.

Any person objecting to any portion or portions of the said motor vehicle assessment schedule affecting him or her directly shall file a written objection and claim for adjustment, in duplicate, with the municipal board. The motor vehicle owner shall set forth therein in detail the grounds for his objection and claim for adjustment, with a full and complete identifiable description of the subject motor vehicle.

If the municipal board is of the opinion that the objection and claim for adjustment of the motor vehicle owner has sufficient merit then it shall make whatever adjustment on such claim as in its judgment is fair and equitable; if, on the contrary, the municipal board is of the opinion that the said objection to the proposed assessment does not have sufficient merit then the said board shall disapprove the claim, and the claimant shall be so notified.

If the municipal board approves a claim for the reduction of a proposed assessed value of any specific motor vehicle, then a minute record of such action shall be made by the clerk of said board and a certified copy of such action shall be furnished the tax collector, and in making his report the tax collector shall cite on the ad valorem tax receipt and in his report the minute book and page as

legal reason for such reduction of assessed value on any such motor vehicle. Excepting, as hereinabove provided, the tax collector is without legal authority to vary from the adopted assessment schedule in collecting such taxes on any specific motor vehicle.

Any taxpayer dissatisfied with any portion of the assessment schedule directly affecting him may pay the resulting tax under protest, at time of payment, and sue for recovery of all or any portion of the tax paid. This recourse is available, however, only to the taxpayer who filed objection and adjustment claim to the proposed assessment during the time set for filing such objection, as provided hereinabove, excepting in cases where the cause for such protest originated subsequent to the date for filing such objection.

SOURCES: Laws, 1958, ch. 588, § 20.

§ 10007-21. Exemptions and credits—penalty for violation of section.

Beginning with the taxes due on the 1958 regular assessment, all motor vehicles, as defined in this act, while in the hands of bona fide dealers as merchandise and which are not being operated upon the highways of this state shall be exempt from all ad valorem taxes.

All motor vehicles belonging to the Federal Government or the State of Mississippi or any agencies or instrumentalities thereof shall be exempt from all ad valorem taxes.

All motor vehicles operated in this state as common and/or contract carriers of passengers when such carriers are required by law to obtain a certificate of public convenience and necessity from the Mississippi Public Service Commission, and on which such common and/or contract

carriers of passengers there is levied a privilege license tax of three per cent (3%) of the gross revenue derived from the operations of such carriers within the state as provided by section 9352-04, Mississippi Code of 1942, shall be exempt from the ad valorem taxes authorized by this act.

Exemption from ad valorem taxes on any motor vehicle under the provisions of sections 9697 through section 9713, Mississippi Code of 1942, as amended, may be effective for only that portion of the taxable year during which the exemption conditions or requirements of said code sections as to ownership and/or use are applicable to such motor vehicles.

Any claim for tax exemption by authority of the abovementioned code sections or by any other legal authority, shall be set out in the application for the road and bridge privilege license, and the specific legal authority for such tax exemption claim shall be cited in said application, and such authority cited shall be shown by the tax collector on the tax receipt as his authority for not collecting such ad valorem taxes, and the tax collector shall carry forward such information in his tax collection reports.

Any motor vehicle driven over the highways of this state to the extent that the owner of such motor vehicle is required to purchase a road and bridge privilege license in this state, yet the legal situs of such motor vehicle is located in another state, shall be exempt from ad valorem taxes authorized by this act.

If a taxpayer shall sell or trade a motor vehicle, on which the ad valorem and road and bridge privilege taxes have been paid in any county in the state, to a regular automobile dealer and shall receive in trade or shall purchase another motor vehicle during the same taxable year,

then the taxes already paid for the remaining portion of the taxable year on the trade-in motor vehicle shall be credited on the taxes due on any such replacement motor vehicle, if the license plate issued for the trade-in motor vehicle is surrendered to the tax collector.

If the said license plate was issued in another county in the state, then the corresponding privilege license and ad valorem tax receipt must also be surrendered as evidence of the amount of taxes paid.

Credit shall also be allowed in the same proportion, as outlined above, on the road and bridge privilege taxes for the remaining portion of the year. No credit, however, shall be allowed on the charge made for the license plate. Such license plates surrendered to the tax collector shall be retained by him, and in no event shall such license plate be attached to any motor vehicle after being surrendered to the tax collector, nor shall any license plate be transferred from one motor vehicle to any other motor vehicle.

Any person found violating any of the provisions of this section shall be arrested and tried, and if found guilty shall be fined in an amount double the total amount of taxes involved.

SOURCES: Laws, 1958, ch. 588, § 21.

§ 10007-22. Highway Safety Patrol and other peace officers to check for violations of Act—arrests and fines—penalty for unauthorized delay in payment of taxes.

It shall be the duty of members of the Mississippi Highway Safety Patrol or any other peace officer, when investigating any traffic violation, wreck, or routine check involving any motor vehicle, to obtain all information necessary in determining whether or not the provisions of this

act have been complied with in all substantial respect with reference to such motor vehicles so involved. It shall also be the duty of all peace officers, including members of the said highway safety patrol, to investigate any alleged violation of this act reported to them and to proceed according to law.

On and after the effective date of this act any person operating a motor vehicle upon the public highways of this state who has not complied with the provisions of this act shall be arrested by any officer authorized to make arrests, and tried, and, if convicted, shall be guilty of a misdemeanor for each separate offense and shall be fined as now provided by law, and each such illegal operation of a motor vehicle upon the public highways of this state shall constitute a separate offense.

A penalty of ten per cent (10%) of the ad valorem taxes due shall be assessed against the taxpayer for the first fifteen (15) days of delinquency, or any part thereof, in all cases where there is an unauthorized delay in the payment of the ad valorem taxes due on any motor vehicle which is liable for such a tax, under the provisions of this act, and such penalty shall be increased to twenty-five per cent (25%) for a delinquent period in excess of fifteen (15) days. The penalty shall be collected by the sheriff and delivered to the taxing district involved. The sheriff shall not be entitled to any portion of this penalty other than his usual fee for collecting taxes as provided in section 3936, Mississippi Code of 1942, recompiled, as amended, except that he shall not be entitled to any percentage for alleged collection of the tax and penalty by distraint.

SOURCES: Laws, 1958, ch. 588, § 22; 1959, Ex., ch. 23.

§ 10007-23. Constitutionality.

If for any reason, any section, paragraph, provision, clause or part of this Act shall be held unconstitutional or invalid, that fact shall not affect or destroy any other section, paragraph, provision, clause or part of this Act not in and of itself invalid, but the remaining portion thereof shall be in force without regard to that so invalidated. [Supersedes former § 10007-23.]

SOURCES: Laws, 1958, ch. 588, § 23; 1960, ch. 413, § 11.

§ 10007-24. Tax Commission may postpone time for preparing assessment schedule.

For any year, the Tax Commission is hereby authorized, in its discretion, to pass an order postponing for not more than thirty (30) days the time for preparation of the assessment schedule herein referred to, the time for forwarding the same to the presidents of the various boards of supervisors and mayors or other presiding officers of the various municipalities, the time for the consideration of the same and the subsequent time for adoption and publication by these respective boards, and the time for filing objection to the same by any affected motor vehicle owner. In cases where any municipality elects to prepare its own independent schedule, such postponement shall also apply to its acts and duties.

Such postponement order shall be made of minute record by the Tax Commission and a certified copy shall be furnished the presiding officers of the various counties and municipalities and such order shall be binding on all counties and municipalities.

SOURCES: Laws, 1958, ch. 588, § 24; 1960, ch. 413, § 9.

§ 10007-25. Rules and regulations.

The state tax commission shall adopt and issue rules and regulations, not inconsistent with this act, as to the duties of all officials, boards and officers in the administration of this law, and such other rules and regulations not inconsistent with this act, as the tax commission shall deem necessary. Such rules and regulations shall be observed by such officials, boards and officers in all respects and in the performance of any and all duties imposed and powers granted by this act.

SOURCES: Laws, 1958, ch. 588, § 25.

§ 10007-26. Motor vehicle ad valorem taxes not collectible, except as provided in Act.

No ad valorem taxes on motor vehicles, as defined in this Act, excepting that provided for by this Act, shall be assessed, levied or collected.

SOURCES: Laws, 1958, ch. 588, § 26; 1960, ch. 413, § 10.

APPENDIX B

§ 10007-51. Purpose of Act.

The purpose of this act is, with reference to assessing and collecting ad valorem taxes on house trailers, to (a) fix the taxable year, (b) fix the lien date, (c) determine the method of assessing, (d) fix the dates for assessing such taxes, (e) prescribe the method of collecting such taxes, and (f) to fix the dates for collecting such taxes.

SOURCES: Laws, 1962, ch. 535, § 1.

§ 10007-52. Definitions.

The subject words and terms of this section, for the purposes of this act, shall have meanings as follows:

(a) The term "house trailer" shall mean and include any trailer-type vehicle or mobile home, designed and constructed so as to be suitable for use for domestic, commercial, or industrial purposes, and which is constructed so that it may be moved from place to place over the highways and streets by being supported by two (2) or more wheels, and drawn or moved by motive power not its own, and which house trailer is not taxed under authority of chapter 588, laws of 1958 [§§ 10007-01 et seq.].

(b) The term "person" shall mean any natural person, agency, firm, copartnership, corporation, joint stock, or other association or organization.

SOURCES: Laws, 1962, ch. 535, § 2.

§ 10007-53. Registration fee—report and payment—proration of tax.

Any person owning, occupying, using, or having in his possession or control a house trailer shall, not later than the last day of November each year, register such house trailer with the sheriff of the county in which it is located on such date. At the time such registration is made, and before a registration certificate and label may be issued, the said owner, occupant, user, possessor, or controller of said house trailer shall pay a registration fee of two dollars and fifty cents ($2.50) together with all ad valorem taxes due on said house trailer for the then fiscal year. Fifty cents (50¢) of this fee shall be retained by the sheriff, one dollar ($1.00) shall be paid into the general county fund, and one dollar ($1.00) of this fee shall be forwarded to the tax commission to cover cost of labels, tax receipt forms, etc., as hereinafter provided.

Such payment to the tax commission shall be made on or before the twentieth day of each month for taxes collected during the preceding month. This payment shall be forwarded to the tax commission along with a report showing the following information of all taxes collected: name of owner, length of trailer, serial number of trailer, assessed value, taxing district, total taxes collected, and total registration fee. This report may be made up on the same form used for reporting ad valorem taxes on other motor vehicles.

If a person purchases a house trailer at any time during the fiscal year, then the ad valorem taxes shall be prorated for the remaining portion of the fiscal year. The first day of any month shall be the tax lien date for any such vehicle purchased at any time during said month. The registration fee shall not be subject to proration.

SOURCES: Laws, 1962, ch. 535, § 3.

§ 10007-54. Taxable and fiscal year—tax lien date—trailer brought into state.

For the purpose of this act the taxable and fiscal year shall commence each year on November first and shall end on October thirty-first of the following calendar year. The tax lien date shall also be November first for a house trailer owned on that date.

The date of purchase of a house trailer during the fiscal year shall constitute the tax lien date for such vehicle and the ad valorem taxes will be calculated on a pro rata basis.

A person bringing such a house trailer into this state, on which the taxes have already been paid in another state, shall be allowed thirty (30) days in which to pay the tax in this state.

SOURCES: Laws, 1962, ch. 535, § 4.

§ 10007-55. Sheriff's fees.

For his services in collecting the registration fees and ad valorem taxes authorized by this act, the sheriff shall be allowed the same fees as he is allowed by section 15, chapter 588, laws of 1958 [§ 10007-15], excepting that he shall be allowed to retain fifty cents (50¢) of the registration fee.

In posting his cash book the sheriff shall follow the same procedure set out in section 13, chapter 588, laws of 1958 [§ 10007-13].

SOURCES: Laws, 1962, ch. 535, § 5.

§ 10007-56. Information to be furnished to sheriff—registration label and tax receipt.

The person registering the said vehicle shall do so by furnishing to the sheriff the name of the person occupying said vehicle, address, taxing situs, make and year model vehicle, serial number, length and width of vehicle.

Upon furnishing the above information, and payment of the registration fee and ad valorem taxes due, the sheriff shall issue a registration label together with a tax receipt showing the total amount of taxes and fee paid. The tax receipt number so issued shall bear the same number as that shown on the registration label.

SOURCES: Laws, 1962, ch. 535, § 6.

§ 10007-57. Assessed value of house trailer—collection and assessment of municipal taxes—exceptions to assessment schedule.

The assessed value of house trailers as set out in the assessment schedule provided for by chapter 588, laws of 1958 [§§ 10007-01 et seq.], as amended, shall be used by the

sheriff in assessing and collecting ad valorem taxes on said house trailers.

In no instance may any taxing agency, under authority of this act, either reduce or increase for purposes of ad valorem taxation the assessed value of any such house trailer, from that shown by the aforesaid assessment schedule.

In all cases where a sheriff has been previously authorized to collect motor vehicle ad valorem taxes for any municipality in his county, as provided for by chapter 588, laws of 1958 [§§ 10007-01 et seq.], such authorization shall also include the collection of such municipality's ad valorem taxes on house trailers as authorized by this act.

This act shall not apply to the assessment and collection of municipal taxes excepting in those cases where the sheriff has been or will be authorized to assess and collect such taxes. Such authorization shall be made according to the provisions set out in said chapter 588, laws of 1958 [§§ 10007-01 et seq.].

Any person objecting to the assessment schedule as it affects the assessed value of his house trailer may proceed as is provided for under section 12, chapter 588, laws of 1958 [§ 10007-12].

SOURCES: Laws, 1962, ch. 535, § 7.

§ 10007-58. Exemptions.

(a) House trailers which are already taxed under authority of Chapter 588, Laws of 1958 [§§ 10007-01 et seq.], are exempt from the taxes authorized by this act.

(b) A house trailer located on land which is owned by the same person owning and occupying the said house trailer shall also be exempt from the taxes authorized by

this act, if the wheels of said house trailer have been detached and the trailer is placed on a conventional type foundation. Such trailers shall be assessed and taxed along with the land as other property is assessed and taxed.

(c) If any vehicle defined in this act is used or is to be used upon the streets and highways of this State after the tax, as set out in this act, has been paid, then the sheriff shall exempt such vehicle from further ad valorem taxes for the remaining portion of the current fiscal year in issuing a road and bridge privilege license for such vehicle.

(d) On and after passage of this act all such house trailers owned by and/or in the possession of a dealer as merchandise shall also be exempt from taxes under this act, and the governing authorities of any county or municipality are hereby directed to have the assessed value of such property stricken from the assessment rolls.

SOURCES: Laws, 1962, ch. 535, § 8; 1964, ch. 526.

§ 10007-59. Trailer court operator required to keep register.

Each operator of a trailer court shall at all times keep an accurate and complete register of each trailer located on such court. This register shall show the name of the person occupying or in charge of the trailer, the length of the trailer, its serial number, and the date such trailer was placed in the court.

Failure on the part of the operator of a trailer court to comply with the provisions of this section may result in the revocation of such operator's license to operate such court.

SOURCES: Laws, 1962, ch. 535, § 9.

§ 10007-60. Lien of county and municipality—due date—collection of delinquent taxes—seizure and sale.

The taxes authorized by this act shall become a bona fide lien of the county and municipality against each subject house trailer or mobile home until paid and satisfied in full, and all delinquent taxes may be collected as hereinafter provided.

The taxes assessed and levied under authority of this act shall become due and payable on or before November first and if any taxes due and owing by any owner of a house trailer or mobile home described in section 1 of this act [§ 10007-51] have not been paid within thirty (30) days, then the tax collector of any county or municipality shall on or before the fifteenth day of the following month send a notice to the owner of such trailer by certified mail at his last known address advising said owner of the amount of taxes due and that lien in favor of the political subdivision exists against said trailer.

If the taxes due are not paid in full by the first day of the following month then the tax collector of the county or municipality shall publish for the next two (2) consecutive weeks in a newspaper published in the county, a list of the trailer owners and the serial number and model number or most appropriate legal description of each trailer and the amount of taxes due on each trailer. The published notice shall contain a day certain when the trailers shall be sold for taxes due thereon but said date shall not be sooner than one week nor later than four (4) weeks after the final publication thereof.

On or before the date fixed in the notice for such sale, if there remain any taxes due on any house trailer or mobile home, the tax collector of the county or municipality shall seize said vehicle and proceed to sell the same for

cash to the highest bidder at public outcry at the appropriate courthouse of the county or city hall, as the case may be. Provided, however, there shall be added to the taxes due, twenty-five per cent (25%) damages, interest at the rate of one-half per cent (½%) per month from the date such taxes were due, plus all publication costs.

In the event there are no sales for a trailer or trailers on the first published date, then the tax collector may continue the sale from day to day until all sales are final without further or additional notice to the trailer owner or by publishing a notice.

The proceeds of every sale made under authority of this section in excess of the taxes, interest, damages and publication costs, shall be held by the tax collector for a period of six (6) months from the date of such sale, if not reclaimed by the trailer owner prior to the expiration of said six (6) months' period, and if not reclaimed within said period such residue shall escheat to the county and shall be paid over forthwith to the chancery clerk to be deposited into the general fund of the county in which said sale is made.

Any house trailer or mobile home sold under authority of this act for unpaid taxes thereon shall be sold by the sheriff as other personal property is sold for delinquent taxes, and the proceeds derived therefrom shall be paid by the sheriff to the proper fund as he presently pays monies collected on other personal property under distress proceedings for taxes.

SOURCES: Laws, 1962, ch. 535, § 10.

§ 10007-61. Power and duties of state tax commission.

The state tax commission shall adopt and issue rules and regulations, not inconsistent with this act, as to the

duties of all officials, boards and officers in the administration of this law, and such other rules and regulations not inconsistent with this act, as the tax commission shall deem necessary. Such rules and regulations shall be observed by such officials, boards and officers in all respects and in the performance of any and all duties imposed and powers granted by this act.

The tax commission shall also prescribe and furnish labels, tax receipt books and other forms necessary for the proper administration of this act.

The tax commission shall also prescribe the method and place of attaching the label to the vehicle.

SOURCES: Laws, 1962, ch. 535, § 11.

§ 10007-62. Material misstatement of facts penalized.

Any material misstatement of facts by the property owner or his agent in the administration of this act shall constitute a misdemeanor and upon conviction the offending person shall be punished according to law.

SOURCES: Laws, 1962, ch. 535, § 12.

§ 10007-63. Determination of total assessed value of county.

Only the assessed value of all house trailers on which taxes were paid for the first three (3) months of the fiscal year shall be added to the assessed value of other property of the county in determining the total assessed value of a county for classification purposes.

SOURCES: Laws, 1962, ch. 535, § 13.

§ 10007-64. Constitutionality.

If for any reason, any section, paragraph, provision, clause or part of this act be held unconstitutional or in-

valid by a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect the remaining portions of this act, but the remaining portion thereof shall be in full force and effect without regard to the findings of said court or courts.

SOURCES: Laws, 1962, ch. 535, § 14.

§ 10007-65. Effective date.

This act shall take effect and be in force from and after November 1, 1962 (approved June 1, 1962).

SOURCES: Laws, 1962, ch. 535, § 15.